



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MICHAEL J. SULLIVAN

DIRECTOR

August 17, 1995
AO-95-27

Stig Bolgen, Director
Government Affairs Department
Printing Industries of New England
10 Tech Circle - P.O. Box 2009
Natick, MA 01760-0015

Re: Establishment of political action committee

Dear Mr. Bolgen:

This letter is in response to your July 28, 1995 request for an advisory opinion regarding the establishment of a Massachusetts political action committee.

You have stated that the Printing Industries of New England (PINE) is a non-profit regional trade association representing approximately 500 companies located in five New England states. The typical PINE member is a commercial printer utilizing the offset lithographic manufacturing process. PINE is affiliated with Printing Industries of America (PIA) a national trade association located in Alexandria, Virginia. Members of PINE are automatically members of PIA.

You have also stated that PIA sponsors PRINTPAC, a federal political action committee which raises funds in every state and only makes disbursements to candidates for federal office. PINE's Board of Directors would like to establish a Massachusetts state PAC (PINEPAC) for the purpose of raising funds and making disbursements to candidates for statewide office. The PAC would be named "Printing Industries of New England Political Action Committee" (PINEPAC).¹ PINEPAC's Statement of Organization would utilize a Massachusetts address (PINE's Natick address) but recordkeeping and reporting obligations of PINEPAC would be completed by the treasurer, an employee of PIA who also is treasurer of PRINTPAC, operating out of an office in Virginia. The chairman of PINEPAC would likely be an officer or member of PINE. Fundraising activities

¹ Since a political committee may use only the name reflected in the committee's Statement of Organization, which "shall include the full words represented by any abbreviations," the committee may not refer to itself in writing or on printed material as "PINEPAC," unless the abbreviation is accompanied by the words "Printing Industries of New England Political Action Committee." See M.G.L. c. 55, ss. 5 and 5B.

would be conducted by employees of PINE's Government Affairs Department, and would include an effort to simultaneously solicit contributions for both PINEPAC and PRINTPAC.

You have asked two questions: (1) can a PINE employee, as agent of both PINE and PIA, solicit contributions for PINEPAC and PRINTPAC simultaneously? and (2) can a potential contributor support both PACs with one personal check (using the memo portion of the check to allocate what percentage of the check will be used for each PAC) if a transmittal account (independent depository) is used to allocate funds between PACs? Your letter also raises other issues which will be discussed separately.

- (1) Can a PINE employee, as agent of both PINE and PIA, solicit contributions for PINEPAC and PRINTPAC simultaneously?

Yes. Provided the employee complies with all requirements of the Massachusetts campaign finance law, a PINE employee may solicit contributions for both PACs simultaneously.

This office at one time advised that joint fundraising efforts by Massachusetts political committees and political committees organized in other jurisdictions were prohibited since it would be difficult to ascertain the allocation of expenses between the committees. See AO-89-14. However, campaign finance legislation recently enacted in Massachusetts, by ch. 43 of the Acts of 1994, indicates that joint fundraising activities and solicitation of contributions by two committees, may be consistent with the campaign finance law. See M.G.L. c. 55, s. 10A, as added by c. 43 of the Acts of 1994 and amended by c. 292 of the Acts of 1994. Such activities must be "bona fide" and consistent with the provisions of M.G.L. c. 55. See also Weld for Governor v. Director of OCPF, 407 Mass. 71 (1990) (joint campaign activity of two committees "bespeaking no appearance of corruption" is not prohibited by campaign finance law). Similarly, solicitation by an employee of an association for two PACs, one of which is a federal PAC, may be consistent with the campaign finance law.

To comply with the Massachusetts campaign finance law and avoid the appearance of impropriety, the employee must clearly identify, to potential contributors, all entities he or she is soliciting for. In addition, the employee must ensure that funds received for PINEPAC are kept separate and distinct from funds received for PRINTPAC, in accordance with the contributors' expressed intentions.² The employee must diligently maintain all records required by M.G.L. c. 55, s. 2, identifying those contributions received on behalf of PINEPAC. In addition, the employee must provide a detailed account to the PINEPAC treasurer within three days of receipt. See M.G.L.

² For example, a contributor may, as discussed in response to your second question, use the memo portion of a check to allocate the percentage to be used for each PAC. A contributor might also provide two checks, one for each PAC.

c. 55, s. 23. The information included in this detailed account should include the information regarding contributions specified in M.G.L. c. 55, s. 18.

- (2) Can a potential contributor support both PACs with one personal check (using the memo portion of the check to allocate what percentage of the check will be used for each PAC) if a transmittal account (independent depository) is used to allocate funds between PACs?

Yes. If information is provided with a check (either in the memo portion of the check or in a separate signed document) which clearly indicates that the contributor intended that the contribution be divided between the two PACs in a particular manner, the check may be accepted and the funds allocated as directed by the contributor.

A contribution made to both PINEPAC and PRINTPAC by the use of a single check must be placed in a separate depository and then allocated to PINEPAC and PRINTPAC based on the contributor's expressed intent. PINEPAC must receive and maintain the necessary contributor information regarding the contributions collected in the depository on its behalf, and must report that portion of the contribution it receives, without any deduction for bank or other fees associated with using the depository. Such fees assessed in connection with the depository, however, are PINEPAC's responsibility in the same proportion that the total contributions deposited into the depository account are earmarked for PINEPAC, and that portion of the fees must be paid for and reported by PINEPAC.

- (3) Can a PINE employee solicit contributions for PINEPAC while receiving compensation from PIA or PINE?

Yes, if PINEPAC reimburses PINE or PIA for the amount of compensation received while undertaking these fundraising activities.

Neither business or professional corporations nor associations comprised of such corporations may contribute to political action committees. See M.G.L. c. 55, s. 8, Opinion of the Attorney General, Nov. 6, 1980, and AO-82-20. Since the members of PIA and PINE are business corporations, neither PIA nor PINE may contribute anything of value to PINEPAC. See AO-89-14 (mailings made by local boards of realtors constituted impermissible in-kind contribution funded by business corporation monies). Any services required to be performed by PIA or PINE and provided to PINEPAC, including the solicitation of contributions for PINEPAC while receiving compensation from PINE or PIA for such services, would be prohibited by s. 8 unless paid for by PINEPAC.

Similarly, if PIA or PRINTPAC (or any business or professional corporation, association of such corporations, or political committee not registered in Massachusetts) provide services to PINEPAC, PINEPAC must reimburse PIA or PRINTPAC for the fair market value of such services. In addition, if PIA or PRINTPAC provide office space, other administrative support, or

anything else of value, PIA or PRINTPAC must be reimbursed. If PINEPAC pays the fair market value, PINEPAC can receive the office space or other administrative support.

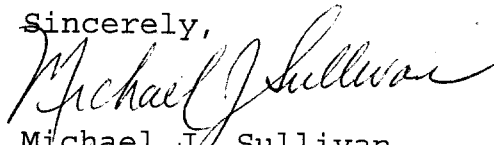
- (4) Can PINEPAC operate out of an office in Virginia, even though the committee's Statement of Organization reflects an address in Massachusetts?

PINEPAC may have an additional office in another state, even if its Statement of Organization reflects a principal address in Massachusetts.

This opinion has been rendered solely on the basis of representations made in your letter, and solely in the context of M.G.L. c. 55. You should contact the Federal Elections Commission to ensure that the contemplated activities, to the extent they involve the operation of a federal PAC, are consistent with federal elections law.

Please do not hesitate to contact this office should you have additional questions about this or any other Massachusetts campaign finance matter.

Sincerely,


Michael J. Sullivan
Director

MJS/cp